

QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

Volume 34, n°15
26 février 2013 | February 26th 2013

QUID NOVI

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WHAT'S INSIDE? QUEL EST LE CONTENU?

| | |
|--|----|
| ÉDITO | 3 |
| VERS UNE COHÉRENCE EN POLITIQUE UNIVERSITAIRE | 4 |
| AJOUTONS À LA FARCE DU SOMMET | 5 |
| BOB LOBLAW'S LAW BLOG - A CONFEDERATION OF DUNCES | 6 |
| INNOCENCE MCGILL IS NOW ACCEPTING APPLICATIONS FOR 2013/2014 | 8 |
| PARTICIPANTS DEMANDÉS POUR UNE ÉTUDE SOCIOLINGUISTIQUE | 8 |
| POINT DE FUITE | 9 |
| "DETAINING REFUGEES"/« RÉFUGIÉS DÉTENUS » PANEL DISCUSSION | 14 |
| FACULTY COUNCIL REPORT | 15 |
| INNOCENCE MCGILL CONFERENCE REVIEW | 16 |
| LIBRARY NEWS | 17 |
| OVERHEARDS | 17 |
| CALL FOR SUBMISSIONS: STUDENT LED SEMINARS | 19 |
| NEXT ISSUE: MARCH 19TH | 19 |

WANT TO TALK? TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant
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Toute contribution doit indiquer le nom de
l'auteur, son année d'étude ainsi qu'un titre
pour l'article. L'article ne sera publié qu'à la
discrétion du comité de rédaction, qui

basera sa décision sur la politique de
rédaction.

Contributions should preferably be submitted as
a .doc attachment (and not, for instance, a
".docx").

Co-Editor in Chief

AARON
FERGIE

COLLECTIVE FAIRNESS & INDIVIDUAL FAIRNESS

Since justice is typically of prime concern for those trained in the legal arts, and one's sense of justice is fundamentally connected with one's sense of what is fair, I thought it would be appropriate to reflect upon the differences between what I call collective fairness and individual fairness, and perhaps try to provide an account of these.

Individual Fairness.

Now, it is a commonplace that as Canadians we live in a society that fundamentally turns around the individual. This means that by and large, the distribution of benefits and burdens in our society tends to take the individual as the basic unit.

Likewise, our appraisal of what is a fair distribution of social benefits tends to reflect this conception of the individual as the basic unit of justice. For example, I recently had a conversation in the lunch room with another law student, and the proposition was raised that a society which requires family and social connections to rise is unfair, for then one might be forever bound to a certain socio-economic class in spite of whatever merits they might have. This is the sort of proposition which takes the individual as the basic unit of justice. Through the lens of individual fairness, if it is not fair for the individual, then it is simply not fair.

Collective Fairness.

However, I would like to propose how one may still have a coherent sense of fairness even if this does not take the individual as the basic unit.

When one depends fundamentally upon a collectivity for the satisfaction of their needs (be that food, psychological health, achievement of potential, or what have you), I suspect that the collectivity tends to become the base for our moral judgments. In other words, the basic social unit of survival (e.g., individual, couple, family, extended family, village, society, et al.) will tend to be the basic subject for our moral judgments.

For instance, a distribution of education opportunities would likely be considered unfair in Canada if the meritorious individual did not have an education opportunity proportionate to their ability. But in a society where the collectivity forms the basic unit of survival (hence where the collectivity is the basic unit of justice), it might not be a problem that a particular member does not have certain opportunities; that is, so long as, e.g., the family can eventually prosper. Since collectivities are extended beyond the individual with respect to both space and time, it makes sense that appraisals of what is fair will look

beyond the individual's life-span towards future generations.

Observations.

Interestingly, in Canada it seems we tend to skip a few levels of social ordering between the individual (and perhaps immediate family) and the society as a whole, when we attribute responsibility for assuring justice. So, when an individual loses their job, they make claims against the state to support them, just as they expect the state to subsidize their education; on the other hand, when an individual goes bankrupt, they, and not their aunts, uncles, and so forth, bear the brunt of the burden. I think this gap may be self-reinforcing, in that as the state plays a greater role in caring for the individual, survival tends to require less and less the collaboration of those immediately around us.

There may also be some interesting relations between individual fairness and collective fairness, since as education opportunities for individuals become more widely distributed (the playing field is leveled, so to speak), differences between family backgrounds play a larger role in determining one's future socio-economic status, thus potentially widening class divides. Food for thought.

Purpose of editorial.

The purpose of this editorial has been to try to provide some account of our basic notions of justice in Canada. Furthermore, I think a sensitivity to different conceptions of justice is a step towards understanding others. I believe that where strict necessity fails, tolerance and understanding are the glue that hold people together. So, for instance, if we can understand where another is coming from, we may understand what they would consider fair treatment. Would a first nations community feel that having a system of individual justice imposed upon them reflects their concerns? Perhaps more importantly, would a system of justice that is a mismatch for its target group actually do anything to help? Would it harm?

Salt.

I would like to throw some grains of salt into this by qualifying what I have said, but I think it would be more interesting if, after having made an honest attempt to resolve any discrepancies with your perspective, you discussed these with your colleagues around the lunch table.

Take care!

-A

ROBERT
LECKEY

VERS UNE COHÉRENCE EN POLITIQUE UNIVERSITAIRE

Quelques chroniqueurs crédibles ont laissé entendre que la politique gouvernementale en matière d'universités et de recherche aurait été improvisée à partir de considérations politiques à court terme. L'ouverture du ministre Pierre Duchesne au gel des frais de scolarité? Elle serait ainsi attribuable aux efforts gouvernementaux afin de retenir le vote étudiant. La réceptivité aux formules de financement qui favoriseraient les universités qui se concentrent plus sur la formation au premier cycle aux dépens de celles qui priorisent également la recherche? Elle serait aussi politique, car plusieurs établissements du réseau de l'Université du Québec se situent dans les circonscriptions péquistes.

Qu'ils aient raison ou non, le fait que ces chroniqueurs puissent émettre de telles suggestions, sans se faire contredire, est désolant. Les Québécois doivent exiger de leur gouvernement qu'il suive d'avantage des pratiques de bonne gouvernance et qu'il démontre plus de consistance dans le développement de sa politique publique universitaire.

Soyons clair : je ne m'attends pas à ce que le ministre Duchesne prenne la parole pour se défendre à chaque fois que les médias le critiquent. Toutefois, s'il avait énoncé une politique cohérente fondée sur le bien public à moyen et long termes qui justifiait ses gestes, le besoin de s'expliquer serait largement réduit.

Il ne faut pas non plus être naïf. Il y a des questions de répartition dont les réponses peuvent être plus ou moins guidées par la politique. Il ne serait pas

sans précédent que la circonscription d'un ministre bénéficie d'un nouveau pont ou d'une chaussée réfectionnée plus souvent que celle d'un député de l'opposition.

Toutefois, permettre aux considérations politiques à court terme de dicter les orientations relatives aux institutions qui sont primordiales pour le présent et l'avenir de notre société serait quelque chose de beaucoup plus grave.

Je ne veux pas m'avancer à prescrire des politiques universitaires. Sans se pencher sur les questions de fond, il est néanmoins possible d'identifier quelques jalons procéduraux qui pourraient guider l'élaboration d'une politique qui se prêterait moins aux accusations d'improvisation et de partisanerie.

D'abord, en l'absence de circonstances graves, toute politique devrait être conciliable avec notre passé récent. Cela est d'autant plus vrai dans un contexte de gouvernement minoritaire. Pendant les dernières décennies, la politique publique en matière universitaire a priorisé l'accessibilité aux études supérieures. Elle a aussi soutenu l'ambition que les universités québécoises atteignent de hauts niveaux d'excellence en recherche, mesurés par des standards internationaux.

Cependant, si l'œil du ministre demeure fixé sur l'accessibilité, la continuité entre les décisions récentes et les ambitions du passé en recherche devient plus ténue. C'est plutôt une rupture qui se dégage du fait que le ministre fait dissidence du consensus non-partisan de

longue date quant au sous-financement des universités québécoises. De fait, c'est la quête vers l'excellence en recherche, et non pas seulement les moyens pour y parvenir, qui se trouve remise en question.

Ensuite, toute politique devrait respecter les contraintes minimales de la saine gestion. Cependant, l'imposition de coupes rétroactives – une année après l'approbation des budgets, lorsque trois-quarts de l'année fiscale se sont écoulés –, contrevient aux normes les plus rudimentaires.

Enfin, les universités québécoises méritent un ministre qui en est le champion et non pas le sceptique en chef. Il incombe au ministre de l'Enseignement supérieur de défendre l'importance des investissements dans son domaine auprès du public et de ses collègues au Conseil exécutif. D'ailleurs, il devrait agir à titre de fiduciaire des investissements que nous, les Québécois, avons fait par le passé. Néanmoins, je ne suis pas le seul à craindre que les décisions récentes viennent compromettre nos institutions de façon irréparable.

Certes, la société québécoise doit faire face à de sérieuses questions de finances publiques. Or, quelles que soient nos réponses, nous avons droit à une politique gouvernementale qui s'articule autour du bien commun et qui nourrit moins le cynisme ambiant et accablant.

**MICHAËL
LESSARD**

AJOUTONS À LA FARCE DU SOMMET

Cet article est également publié sur Point de fuite. Point de fuite est un journal web où la jeune génération participe aux débats politiques touchant le Québec. Point de fuite publie des textes de fond écrits par des jeunes de gauche, de droite et de centre. www.pointdefuite.ca

Farce.

Un mot qui doit trotter dans la tête du ministre de l'Enseignement supérieur, Pierre Duchesne, depuis que Heather Munroe-Blum, rectrice de l'Université McGill, l'a prononcé il y a deux semaines. Au fond, c'est vrai. Il y a quelque chose d'humoristique quand un gouvernement arbitrant une consultation s'y rend avec une opinion à promouvoir : l'indexation. Au-delà de la plaisanterie, la farce du Sommet sert à remplir un vide. Il manquait un peu de saveur après un printemps si épicé. Il fallait farcir la dinde de l'Éducation. Or, la recette est préparée d'avance. Arrière-goût amer.

On prétend réfléchir sur l'avenir de l'enseignement supérieur au Québec sans même discuter des études collégiales, des techniques et des programmes professionnels. On se positionne presque exclusivement sur les frais de scolarité. N'avait-on pas récemment pensé surveiller les dépenses universitaires à l'aide du Vérificateur général ? Et si l'on accorde un déficit financier aux universités québécoises, existe-t-il un déficit dans la qualité de la formation de l'étudiant ? Et même quand on discute de frais de scolarité, la vision semble très simpliste. Ajoutons un ingrédient nouveau à la recette.

Le principal problème des frais de scolarité est leur effet incitatif. Par exemple, si les frais sont haussés, cela découragera

certains d'étudier à l'université. Pour d'autres, ce sera tout simplement impossible. L'effet incitatif peut être pallié, en partie, par un programme de prêts et bourses adéquat. Or, l'effet pervers de cette solution est que l'étudiant se verra attribuer un diplôme et une dette lorsqu'il finira ses études.

Pour certains, savoir qu'une dette les suivra, comme un boulet, les dissuadera de poursuivre des études postsecondaires. Pour d'autres, il s'agira d'une importante dette à assumer, les intérêts augmentant chaque année. Ayant cela en tête, on vise un emploi payant, plutôt qu'un emploi socialement utile ou personnellement bénéfique. On remet à plus tard le projet de fonder une famille, de créer une entreprise. On consomme moins.

Le régime actuel des frais de scolarité dissuade de bons candidats. Il faut trouver une source alternative de financement.

L'éducation a un coût que l'on accepte d'assumer puisqu'on peut en tirer un bénéfice plus grand que son prix. Il s'agit d'un investissement. Un investissement dont le bénéfice est plus que financier ; il est social, intellectuel, culturel, vital, même. Pour être équitables, les bénéficiaires de cet investissement doivent opérer la mise en dépôt initiale. La société a indéniablement un grand rôle à jouer, car elle bénéficiera de l'éducation postsecondaire d'une manière presque incalculable. L'étudiant bénéficiera lui aussi de sa formation postsecondaire.

Penser que l'étudiant doit payer maintenant est simpliste. Il est gravement dangereux de lui imposer des frais élevés au moment même où il ne possède presque rien. Chaque dollar que l'étudiant doit dépenser peut faire une dif-

férence dans la qualité de son éducation, si l'étudiant doit travailler un nombre d'heures excessif. Aussi, chaque dollar représente-t-il potentiellement une menace à l'accessibilité aux études, s'il devient impossible pour l'étudiant de le déboursier. Face à ces problèmes, la solution saute aux yeux. L'étudiant payera quand il aura assez d'argent : après ses études.

Il s'agirait alors de demander à l'ancien étudiant, maintenant salarié, de déboursier un certain pourcentage de son revenu annuel. Le diplômé remboursera ses études jusqu'à concurrence d'un montant déterminé. Peut-être un tiers du coût réel des études. Jean-François Lisée proposait jusqu'aux deux tiers du coût réel avec la gratuité scolaire durant les études.¹

Tel qu'indiqué, une dette à la sortie des études est un lourd fardeau à porter. Elle bloque la naissance de projets. Ainsi, cet impôt postuniversitaire ne serait prélevé qu'au moment où l'ancien étudiant devient un haut salarié. L'effet dissuasif de la dette serait éliminé. Il serait assez simple de coordonner le prélèvement de cette somme avec Revenu Québec, qui fait déjà un travail équivalent.

Voilà enfin une solution qui sort des débats quasi binaires propres au Sommet sur l'enseignement supérieur. Contrairement à certains animateurs de radio et chroniqueurs démagogues, je n'irai pas jusqu'à croire que les Québécois rejettent toute innovation puisqu'elle chamboule leur monde. Soyons optimistes. Espérons seulement que cette proposition sorte du cadre de la farce.

1. LISÉE, Jean-François. Comment mettre la droite K.-O. en 15 arguments, Montréal, Stanké, 2012, page 99.

A CONFEDERATION OF DUNCES

Oh, how I do so love the Canadian Constitution.

And why shouldn't I? It is an infernally vague, contradictory and piecemeal document, apparently thrown together by our venerable Fathers of Confederation between liquor-soaked banquets of roast wildebeest.

Mind you, without that liquor, the notion of "Confederation" (such as it is) would probably never have occurred in the first place. Alcohol was truly the glue that welded together a bunch of squabbling provincial-minded regions into what would eventually become our modern Canada.

Unfortunately, alcohol probably played no small part in making our Constitution hopelessly indecipherable to the eye of the average Canadian. This is precisely what I love so much about it.

I am a law student, and the Canadian Constitution is a lawyer's dream. Its obscurity and vagueness are music to the ears of any aspiring constitutional scholar or litigator. (My friend and colleague, the Hon. Bob Loblaw, gleefully falls into this category. He is currently penning a graphic novel on Canadian constitutional history: look for *Fifty Shades of Lord Grey* soon at a bookstore near you.)

As the saying goes, nature abhors a vacuum. If that is the case, the Canadian Constitution should be nicknamed "Hoover" or "Electrolux," because it is little more than one big vacuum.

Permit me an example (well, several actually). While rooting around in the National Archives a few weeks ago, I came across this actual transcript of constitutional deliberations between Sir John A. Macdonald and his fellow Fathers, at the 1864

Charlottetown Conference:

John A: Okay, so let's give the Trade and Commerce power to the feds under s.91.

G-E Cartier: Fine, but shouldn't we describe what that means?

John A: Listen, there's no time for that. Thomas D'Arcy McGee is already in the banquet room drinking all my whisky!

Cartier: Le sigh. Okay, I suppose the term "Trade and Commerce" is straight-forward enough... But what about this "Property and Civil Rights" clause? Where do we put that? And what does it even mean?

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John A: Exactement, mon bon homme. So NOW can we go ambush McGee, before he absconds with all my rum?

And so on, and so forth. The full conference transcript literally runs on like this for hundreds of pages. Sir John A. may have gotten his rum that day, but for a fellow who made his living from the law, he was far from a model of clarity and precision.

Of course, the drafters of a constitution obviously cannot be expected to foresee all possible developments or eventualities,

particularly when the document in question was drafted nearly 150 years ago. Yes, times change. Things happen. Electricity, cars, health care sans leeches, women becoming full-fledged persons... that kind of stuff.

But when I read and reread sections 91 and 92, I can't help but wonder whether it would have been too much trouble for our glorious Founding Fathers to have inserted a quick sentence or two after each of the enunciated powers. It would have given me a better understanding of the nature of "Marine Hospitals." And it might have put a whole bunch of constitutional lawyers out of work. (Perish the thought!)

But perhaps that is expecting too much from Sir John A et al. After all, when you're too drunk to even paste the right name onto your National Project, how can you possibly be expected to get the details right?

As we all know, the Founding Fathers chose to call Canada a "Confederation" – which it most certainly was not in 1867, and is not now. Canada is a federation, a federal state – not a confederate association of sovereign states.

Canada was designed to be a highly centralized state, with most of the important legislative and taxation powers conferred upon the central government, rather than the lowly provinces. Even today, after several decades of large-scale decentralization away from Ottawa, there is no reasonable case for Canada to refer to itself as a Confederation.

So why did this occur? Again, the answer can be found in the transcripts, this time from the 1864 Quebec Conference:

H-L Langevin: So, what should we call this fledging union, anyway?

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Langevin: A Confederation? Really? That sounds like a rather questionable option.

John A: How so? I'm a Conservative, Canada will be a Federation, and I'm gunning to be the first Prime Minister. So "Confederation" fits the bill perfectly.

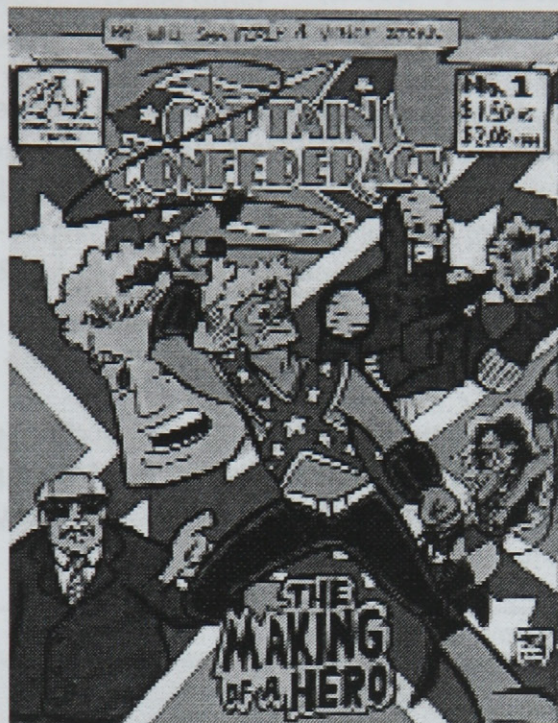
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John A: That's the beauty of it. The Civil War is going to be over one day soon, and when it is, the Americans would never dare attack a second Confederacy. Once is enough for them. It's the perfect ruse to defend Canada's independence!

And so it went. Today, Canada remains a proud Confederation, though I must admit, I am less than enthusiastic about referring to myself as a Confederate. Too soon, I say. Not enough time.

Another delightful aspect of our Constitution is this "living tree" doctrine we have

so progressively attributed to it. Whereas the U.S. Constitution is deemed by our American friends to have been drafted by brilliant demi-gods, and is thus immune from nearly any alteration, we in Canada seem to readily acknowledge that our guiding national document was cobbled together by drunken bumbler with questionable judgment, and even more ques-



tionable legal expertise.

Enter the "living tree" to save us from our saviours. At its root (pardon the pun – that was Mr. Loblaw's idea) the living tree essentially allows us to "read in" any old thing to the Constitution (including stuff

not even vaguely alluded to), while "reading out" actual written clauses from the original document that no longer suit our collective needs. (Or at least the collective needs of constitutional scholars.)

Thus, we have his eminence grise, Prof. Peter Hogg, sagely informing us that the federal government's constitutionally enumerated powers of Disallowance (ss. 55 and 57) and Reservation (s.56) are no longer valid, due to disuse. (And also due, I suspect, to being disliked.)

Apparently if one goes long enough without watering the living tree, certain branches wither and get unilaterally pruned. I have been unable to locate the relevant explanatory clause, but perhaps the tree is still growing that one. I shall check back in the spring.

Yes, what a glorious thing our poor, unappreciated Constitution truly is. It is perfect in its sheer imperfection, great in its many grating ways. It is a pity that the door of Disallowance has apparently been closed to us for all time, or I might be tempted to recommend that we unceremoniously disallow the whole thing, and turn the living tree into firewood.

But what would I know? After all, I'm only a poor, backward Confederate.



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Thus, we have his eminence grise, Prof. Peter Hogg, sagely informing us that the federal government's constitutionally enumerated powers of Disallowance (ss. 55 and 57) and Reservation (s.56) are no longer valid, due to disuse. (And also due, I suspect, to being disliked.)

Apparently if one goes long enough without watering the living tree, certain branches wither and get unilaterally pruned. I have been unable to locate the relevant explanatory clause, but perhaps the tree is still growing that one. I shall check back in the spring.

Yes, what a glorious thing our poor, unappreciated Constitution truly is. It is perfect in its sheer imperfection, great in its many grating ways. It is a pity that the door of Disallowance has apparently been closed to us for all time, or I might be tempted to recommend that we unceremoniously disallow the whole thing, and turn the living tree into firewood.

But what would I know? After all, I'm only a poor, backward Confederate.





INNOCENCE MCGILL IS NOW ACCEPTING APPLICATIONS FOR 2013/2014

One position is available for May - August 2013 (6 credits)

Two positions are available from September 2013 - April 2014 (6 credits each)

Innocence McGill seeks highly motivated students with proven managerial abilities and a demonstrable interest in criminal law. As Innocence McGill is entirely student-run and led, successful applicants will demonstrate independence, motivation, and initiative when dealing with Quebec's wrongfully convicted and Innocence McGill's student volunteers. Functional bilingualism is required; fluency is an asset. Due to faculty-mandated restrictions, applicants must have completed 4 semesters at the Faculty of law and possess a minimum 2.70 GPA (cumulative).

Applicants need only submit the following:

- Une description (maximum une page) de: (a) pourquoi vous êtes un(e) bon(ne) candidat(e); et (b) comment vous rencontrez les critères recherchés pour le poste de directeur d'Innocence McGill pour 2013-2014
- Votre CV. Veuillez inclure toute expérience de travail et de bénévolat que vous jugez pertinente
- Une liste de cours de droit criminel pris jusqu'à maintenant

Certains candidat(es) seront contacté(es) pour une entrevue.

Veuillez soumettre votre demande et les documents justificatifs par courriel à innocence.law@mail.mcgill.ca avant 17h le 15 mars 2013.

PARTICIPANTS DEMANDÉS POUR UNE ÉTUDE SOCIOLINGUISTIQUE

Je suis une chercheuse américaine ayant reçu une bourse Fulbright pour passer l'année scolaire 2012-2013 à Montréal étudiant la représentation de langue et d'identité dans des espaces académiques. Je travaille sous la supervision de Madame Mireille Tremblay, professeure au Département de linguistique et de traduction de l'Université de Montréal.

Je cherche des étudiants francophones nés et ayant grandi dans la Grande Région de Montréal pour participer à une étude sociolinguistique.

Vous participerez à une conversation à propos de votre expérience à McGill et autres sujets d'intérêt.

Si vous êtes intéressés à participer, veuillez me contacter par téléphone au (438) 931-4073 ou par courriel à l'adresse suivante : evalenti2122@gmail.com

Bien cordialement,

Eva Valenti

Point de fuite.

This past week, a group of students from McGill law and other universities launched a new web-journal called Point de fuite. This journal publishes political texts linked to Quebec.

It is a fact that McGill law students will make their point in any political debate. Well, here is a chance to express yourself !

This journal doesn't limit himself to a single political ideal. On the contrary, one of its main goals is to express all points of view in order to give the reader a full scope of the debate.

La sélection des textes se fait plutôt sur la qualité de l'argumentation et de l'écriture. Contrairement aux principaux médias, Point de fuite exige que les sources soient citées.

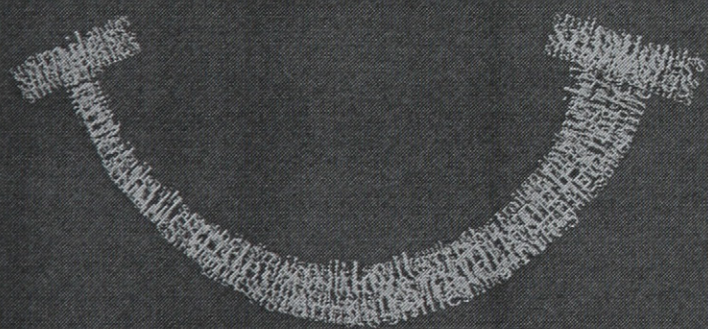
Le journal se veut aussi une plateforme réservée à la jeunesse. Ainsi, même si nous adorons les articles de Derek publié dans le Quid, la limite d'âge est de trente ans.

Pour plus d'informations, je vous invite à parler à Nicolas Benoît-Guay, Jérémy Boulanger-Bonnelly, Michaël Lessard ou Frédérique Thibault.

Nous vous invitons à feuilleter le journal-web sur www.pointdefuite.ca. Vous pouvez déjà lire les articles de Jérémy Boulanger-Bonnelly et Michaël Lessard qui y sont publiés. Aussi, ajoutez-nous sur facebook.com/PointdefuiteQc et sur twitter.com/PointdefuiteQc.

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the smiles that catch you off guard.



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Forces AVENIR

Recognizing & Promoting Student Commitment

Have you demonstrated ingenuity, determination and leadership?

Have you promoted a cause involving your peers or participated in a project that has made a significant impact on your society?

If you can answer YES to either of these questions, you are an ideal candidate to Forces AVENIR!

Details of the 2013 (15th Edition) of Forces AVENIR

- Grants, AVENIR Trophies, and international internships available
- Graduate and Undergraduate categories for individual applicants
- Seven different categories for AVENIR projects
- Celebration for McGill participants in April, where McGill finalists will be announced
- Forces AVENIR provincial finalists are invited to a Gala in fall 2013 for award presentation and media extravaganza

Eligibility

Criteria for Individual / Personality

- Be registered as a full-time student for at least one semester during the period of eligibility (March 30, 2012 – March 31, 2013);
- Be enrolled in an undergraduate or graduate program;
- Be no more than 35 years of age;
- Not be a former recipient of a Forces AVENIR university award in the Personality AVENIR category.

Criteria for Projects

- The project may be carried out by a student club or group, or as part of a university undergraduate program worth a maximum of three credits;
- The project must not take place in the context of a course or a research program which is part of the requirements for obtaining a graduate degree;
- At least 80% of the students involved in the project must meet the criteria for individuals;
- The project must be initiated, made operational or be carried out during the period of eligibility (March 30, 2012 – March 31, 2013);
- The project must not be a former recipient of a Forces AVENIR university award in the Project AVENIR category.

Application Procedure

1. Complete the application form available at <http://inscription.forcesavenir.qc.ca/eng>
2. Provide two (2) copies of the completed application form to the Office of the Dean of Students by noon on Thursday, **28 March 2013**.

Additional information: www.mcgill.ca/deanofstudents/recognition

Questions? Please contact:

Meghan McCulloch, Administrative Coordinator,
Office of the Dean of Students - deanofstudents@mcgill.ca

hrwg

gamdp



McGill Centre for
Human Rights and
Legal Pluralism

STUDENT SPEAKER SERIES: "FROM THE FIELD TO THE FACULTY"

Each year, the Centre for Human Rights and Legal Pluralism sends interns to work with human rights organizations in Canada and abroad. This speaker series is an opportunity for returning interns to share their experiences. Please join us!

Kindly RSVP (chrlp.law@mcgill.ca) for each event. Pizza lunch will be served.

Wednesday, February 27: 12:30 – 2:30 pm – NCDH 200

Anti-discrimination and Alternative Means of Justice

with *Melissa Austen* (Ateneo Centre for Human Rights), *Edward Béchard-Torres* (CONGEH/CIAH), *Anne-Claire Gayet* (Inter-American Court of Human Rights), and *Eloïse Ouellet-Décoste* (LICADHO).

Wednesday, March 20: 12:30 – 2:30 pm – NCDH Room 316

Health, Disabilities and Human rights: Perspectives from Home and Away

with *Roger Bill* (Disability Rights International), *Miatta Gorvie* (Legal Action for Persons with Disability), and *Rosel Kim* (Canadian HIV/AIDS Legal Network).

Wednesday, March 27: 12:30 – 2:30 pm – NCDH 203

Please note date and speakers have changed

Legal and Extralegal Strategies for Combatting Discrimination and Violence against Women and LGBT Minorities

Protecting All Creatures From Domestic Violence

This talk will analyze some of the common issues prosecutors confront when litigating animal cruelty cases motivated by domestic violence.



Scott Heiser is the Director of ALDF's Criminal Justice Program and provides a full spectrum of services to law enforcement and prosecutors who investigate and litigate animal cruelty cases. A prosecutor for seventeen years, Scott served the last eight of those as the elected district attorney in Benton County, Oregon. He has been president of the Oregon District Attorneys Association (ODAA) and a member of the Governor's Drug and Violent Crime Advisory Committee. Scott received his JD from Northwestern School of Law of Lewis & Clark College.



Student Animal Legal
Defense Fund

Wednesday, February 27th 2013

6:00 - 7:30 pm

McGill Faculty of Law, Room 316

3644 Peel Street, Montreal

McGill's Student Animal Legal Defense Fund in collaboration with The Sexual Assault Law Club

Le principe de précaution devant le juge civil

Mathilde Boutonnet

Maître de conférences en droit privé

Titulaire de la Chaire CNRS droit de l'environnement, Université
Aix-Marseille

Jeudi, le 14 mars 2013

12h30-14h00

Lunch will be served at 12h15

Salle 202, New Chancellor Day Hall, 3660 Rue Peel

Space is limited, RSVP to rghl.law@mcgill.ca



Resumé

Le principe de précaution est un principe reconnu dans la Charte de l'environnement en droit français. Son article 5 dispose: « *Lorsque la réalisation d'un dommage, bien qu'incertaine en l'état des connaissances scientifiques, pourrait affecter de manière grave et irréversible l'environnement, les autorités publiques veilleront, par application du principe de précaution, et dans leurs domaines d'attribution, à la mise en œuvre de procédures d'évaluation des risques et à l'adoption de mesures provisoires et proportionnées afin de parer à la réalisation du dommage* ». Il en résulte que, au regard du texte constitutionnel, le principe de précaution concerne la prise de décision publique dans un contexte d'incertitude scientifique. Pourtant, depuis plusieurs années, le juge civil français n'hésite pas à l'appliquer dans les rapports entre personnes privées en cas de risque sanitaire en droit de la responsabilité civile. Il en fait même une application originale : le principe de précaution permet de renforcer la réparation du préjudice et d'améliorer sa prévention. C'est cette double tendance de la prévention et de la réparation des préjudices dans le domaine sanitaire que cette conférence propose de démontrer, à la lueur de la place du principe de précaution dans la jurisprudence française civile.



McGILL RESEARCH

www.mcgill.ca/healthlaw/

**HUMAN
RIGHTS
WORKING
GROUP**

"DETAINING REFUGEES"/«RÉFUGIÉS DÉTENUS» PANEL DISCUSSION

The McGill Human Rights Working Group – Immigration Portfolio invites you to the panel discussion, "Detaining Refugees". The event will take place on Wednesday, February 27 at 7 PM in the Moot Court. Refreshments and Afghan cuisine – prepared by the Afghan Women's Centre Montreal – will be served at 6 PM in the Atrium.

Un panel d'experts, dont Mitchell Goldberg (vice-président de l'Association canadienne des avocats et avocates en droit des réfugiés) et Jenny Jeanes (coordonnatrice des programmes chez Action Réfugiés Montréal) explorera les tendances troublantes concernant la détention de réfugiés, demandeurs d'asile et immigrants au Canada, ainsi que les impacts du projet de loi C-31 nouvellement adopté. They will address issues such as: Why and how do refugees and asylum seekers get detained? What are the impacts of detention on these individuals? What are the motivations behind the increasingly common practice of resorting to immigration detention?

HERBERT JSSELBACHER
CIVILIAN INTERNMENT
CAMP, CANADA

une discussion sur la
détention des réfugiés et immigrants au Canada

«RÉFUGIÉS DÉTENUS» DETAINING REFUGEES

A discussion on the detention of refugees and
immigrants in Canada

Wednesday, February 27th, 2013
Discussion at 7:00 pm
Refreshments will be served starting at 6:15 pm

Atrium & moot court,
McGill Faculty of Law
3644, Peel Street, Montreal

Discussion moderated by
postdoctoral researcher in Chair de recherche
en migration, ethnie et citoyenneté (LUDAN)

With the participation of
Vice-president of the
Canadian Association of Refugee Lawyers
programme coordonnateur de
Action Réfugiés Montréal

Idit Atak
Mitchell Goldberg
Jenny Jeanes

Discussion modérée par
postdoctorales la chaire de recherche
en migration, ethnie et citoyenneté (LUDAN)

Avec la participation de
Vice-président de l'Association canadienne
des avocats et avocates en droit des réfugiés
coordonnatrice des programmes à
Action Réfugiés Montréal

Centre communautaire
de l'Holocauste à Montréal
Montreal Holocaust
Memorial Centre

hrwg
Human Rights Working Group

gande
Groupement d'Action et de Recherche
de Droit de la Personne

recherche.humanrights.ca

FACULTY COUNCIL REPORT

With March break in sight, here is your latest report from Faculty Council:

The Budget (courtesy of Dean Jutras)

The recent budget cuts that the Quebec government has enforced will be a blow to McGill and will doubtlessly have an impact on the Law Faculty's operating budget. On the bright side, the Law Faculty still maintains an impressive philanthropic budget made possible thanks to generous donors and sponsorships. However, most of this philanthropic budget can only be used for specific purposes (like research grants and specific courses, for example). All things considered, we are doing pretty well, but when it comes down to the operating budget, you may eventually be asked to reconsider how much you appreciate important student services, like the Career Development Office, for example.j

Comité des prix et bourses (Professeur Khoury)

* (Nouveau processus de nomination pour les prix discrétionnaires)

Trois buts :

1. Permettre à tous les étudiants de participer au processus
 2. Faciliter le processus pour les professeurs
 3. Permettre l'enclenchement du processus avant la rencontre du Conseil de la faculté pour l'approbation des notes afin que tout puisse être décidé en même temps.
- La date limite pour nommer un de vos pairs ou vous nommer vous-même est le 15 mars.

Le processus se fait sur MyFuture, donc assurez-vous de mettre votre CV en ligne !

Director of the McGill Office for Students with Disabilities (M. Frédéric Fovet)

The number of students helped at the office has doubled since 2010, and Law students should feel comfortable going to the office for support. Mental and/or physical issues, even if temporary, don't have to be a burden on

your studies. The Office for Students with Disabilities is there to help you and accommodate your special needs so that you are not left behind or treated unequally. It is committed to providing an inclusive campus for each individual student, and the Law Faculty is striving for the same.

Vision 2020: Le bureau du développement durable (Lilith Wyatt)

Les réponses d'un appel à tous pour des suggestions montrent clairement que les étudiants veulent aller plus loin qu'un simple campus vert. Le bureau de développement durable s'efforce non seulement d'encourager des petits changements significatifs, comme des systèmes de remplissage rapide pour bouteilles réutilisables aux fontaines, mais il fait aussi pression pour des changements de politique plus globaux. La prochaine étape est d'obtenir le support direct des facultés et la question à se poser est : « comment pouvons-nous contribuer ? » Pensez-y. Dites-le nous.

Si vous avez des questions ou des commentaires sur quoi que ce soit concernant le Conseil de la Faculté, les sujets qui y sont abordés, le rôle que nous y jouons ou tout autre chose, n'hésitez pas à nous contacter, et ce même si vous n'êtes pas certain que nous pouvons répondre à votre question. Il nous fera plaisir de vous diriger vers la bonne personne ou de poser la question pour vous.

Keep calm, and carry on.

John (john.simpson2@mail.mcgill.ca)

Luca (luca.barone@mail.mcgill.ca)

Marc (marc.roy2@mail.mcgill.ca)

Pascale (pascale.april@mail.mcgill.ca)

Dominic (dominic.difruscio@mail.mcgill.ca)

INNOCENCE MCGILL CONFERENCE REVIEW

On Tuesday, February 12, 2013, Innocence McGill welcomed students (from McGill, other Montreal universities, and the University of Ottawa), lawyers, and interested community members to its annual conference on wrongful convictions, which this year featured Mr. David Milgaard and Mr. Peter Edwards.

This year's Innocence McGill conference focused specifically on the wrongful conviction of David Milgaard. Milgaard was convicted of non-capital murder at age 16. He was completely innocent of this crime, and he was finally released in 1992 after spending more than 22 years in prison. His release was secured in large part by his mother, Joyce Milgaard, who worked tirelessly on his behalf, by tracking down leads, getting David's story in the media and attempting to force the Mulroney government to address David's case. Both Milgaard and Toronto Star journalist Peter Edwards touched on the different particular and systemic factors that led to Milgaard's conviction, and Milgaard also used some of his speech to discuss the changes that should be made to the parole system to redress wrongful convictions in Canada.

Both speakers noted that careerism of several important actors (namely the Crown prosecutors) in the Milgaard case played a huge role in Milgaard's wrongful imprisonment. Edwards said that it is important to remember that David Milgaard is free despite the system, not because of it, and that if it were not for Joyce Milgaard's dedication to her son, it is unlikely that he would have had his conviction overturned. Edwards reminded the attendees of the many people who are currently wrongly imprisoned that do not have the same support as Milgaard had.

Milgaard was particularly critical of two aspects of the system still in place around wrongful convictions. First, he explained how the National Parole Board (NPB) most often refuses parole to inmates who still profess their innocence, taking this as a sign that they do not have remorse for their crime instead of a sign that perhaps they really are innocent.

Milgaard explained that a member of the NPB once told him off the record to just confess to Gail Miller's murder in order to get parole - never mind that he had been protesting his innocence for years at this point. The NPB needs to address each inmate uniquely instead of having blanket policies that are not appropriate for everyone. Second, Milgaard advocates for an independent inquiry board in Canada, similar to the system that exists in the UK - a board that would be comprised of members from outside the legal and political community, who would be better able to assess each prisoner's unique situation and decide whether that person should be granted parole.

Both speakers underscored the fact that Milgaard's wrongful conviction not only negatively affected him, but also his parents and siblings, witnesses in Milgaard's trial, and other women who Gail Miller's real killer - Larry Fisher - raped and attempted to murder after Milgaard was sent to jail for Miller's murder and rape.

Despite everything that went wrong for David Milgaard, he has a strong and warm spirit. He encouraged everyone in the audience to show care and support for people currently incarcerated in Canada's prisons. He is also a very positive person who expressed his gratitude to Canadian people across the country who believed in him and helped support his family and their fight for justice.

Milgaard and Edwards also complemented each other nicely, as it was beneficial for the audience to hear the perspective of a reporter who was intimately involved with the case, and to hear Milgaard's story from his own perspective.

Innocence McGill would like to thank the Dean's Discretionary Fund for its financial assistance in helping us bring David Milgaard and Peter Edwards to Montreal and McGill to speak at our conference.

Facebook

We are on Facebook now!!! Like us and see all the latest news from the Nahum Gelber Law Library!

<https://www.facebook.com/NahumGelberLaw.Library>

Interlibrary Loan (ILL)

McGill students, faculty and staff can use Interlibrary Loan (ILL) to obtain books, journal articles and other types of documents that are not owned in the collections of the McGill Library. Effective Thursday February 7, 2013, all McGill ILL borrowers have to log in to the Colombo ILL system using their McGill username and password (first.last@mail.mcgill.ca for students or first.last@mcgill.ca for staff). Old Colombo usernames and passwords will no longer be accepted.

eLOIS: nouvelle source de la législation et doctrine québécoise

eLOIS est un nouveau outil permettant de

consulter le texte intégral bilingue des lois annotées suivantes :Charte des droits et libertés de la personne, Code civil du Québec, Code de procédure civile, Code des professions, Code du travail, Loi sur les accidents du travail et les maladies professionnelles, Loi sur le Barreau, Loi sur les normes du travail, Loi sur la santé et la sécurité du travail, Loi sur les sociétés par actions. Le texte de ces lois correspond à la version diffusée dans le site des Publications du Québec et est reproduit avec l'autorisation de l'Éditeur officiel du Québec.

Chaque article de loi est présenté dans sa version française et anglaise et dispose d'un historique législatif et d'un lien au texte officiel. Il est enrichi d'un historique législatif, de liens à la jurisprudence et à la doctrine citant l'article, des commentaires du ministre le cas échéant, des débats parlementaires et positions du Barreau entourant son adoption, de liens vers des rapports et guides rédigés par des ministères et organismes gouvernementaux, de renvois à des dispositions législatives connexes. La Loi sur les normes du travail

est aussi enrichie des annotations jurisprudentielles et doctrinales de Charles Caza publiées dans la collection Alter Ego de Wilson & Lafleur.

Vous pouvez accéder le eLOIS à partir de notre Law Subject Guide – Canadian legislation and cases.

REMINDER: Rare Books Room Tours Offered

If you would like to know what kind of treasures are kept in the glass enclosed Rare Books Room on the second floor of the Law Library, sign up for a half-an-hour (or longer) tour of the Law Rare Books. To sign up for a tour, please send a request to me, Svetlana Kochkina, svetlana.kochkina@mcgill.ca, and I will notify you when we will have a necessary number of participants.

REMINDER: Law Library blog

Do not forget to check Nahum Gelber Law Library's blog, where you can find more of the Law Library news
<http://blogs.library.mcgill.ca/lawlibrary/>

OVERHEARDS

4L: Moi, une deuxième année qui ne fait pas une genoux-flexion en me saluant, c'est un manque de respect!

2L, on plugging a hole in their factum: There we go. Decisions don't kill people, people kill people. So by decisions we mean corporate negotiations, and by people kill people we mean genocidal armies in foreign dictatorial nations.

4L to 3L : Here's what you need to know. In 1L, you need a good friend or parent to feed you during exams. In 2L, you need a good factum partner to keep you from going crazy. In 3L, well you've pretty much figured out how to feed yourself when very busy and how to avoid toxic people, so you just need a good lover, to keep you glowing during interviews. By 4L, you need to find yourself a committed partner because once Ecole du Barreau, stage or clerk-

ship start, you won't be seeing many people.

Prof. [REDACTED]: Everyone knows stock brokers are completely immoral.

Prof. [REDACTED]: It's actually cheery news that there's a code of ethics for plumbers.

Professor Adams, on why there are multiple evaluations instead of a 100% exam: Now you have multiple ways to get a B.

Prof Adams: A curve is just math. Maybe McGill has a different kind of math.

2L: Transsystemic math.

A DROIT MCGILL LAW PRODUCTION

Skit Nite

MARDI, 12 MARS, 2013

presented by our
official partner Blakes

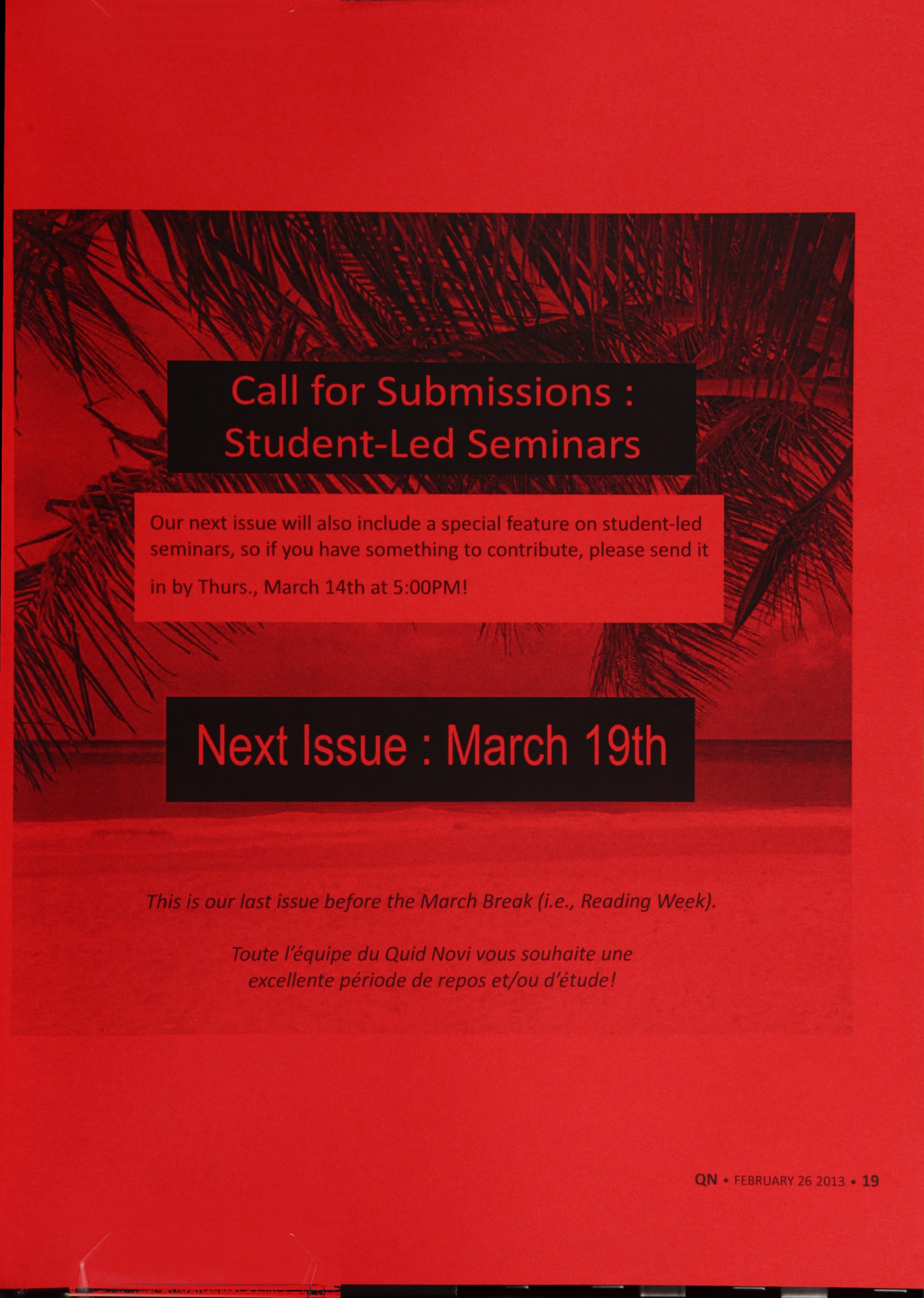
CLUB SODA 1225 St Laurent

doors open at 6:30

show starts at 7:30

\$15 pre-sale/\$20 at door (all
proceeds to charity)

SEE US IN THE ATRIUM - GET YOUR
TIX BEFORE READING WEEK



Call for Submissions : Student-Led Seminars

Our next issue will also include a special feature on student-led seminars, so if you have something to contribute, please send it in by Thurs., March 14th at 5:00PM!

Next Issue : March 19th

This is our last issue before the March Break (i.e., Reading Week).

*Toute l'équipe du Quid Novi vous souhaite une
excellente période de repos et/ou d'étude!*

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about your legal
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